

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY W. THOMAS, A.W.T., INC.,	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-1671
	)	
INDEPENDENCE TOWNSHIP, et al.	)	
Defendants.	)	

MEMORANDUM and ORDER

Gary L. Lancaster,  
District Judge.

August 4, 2006

This is an action in civil rights. Plaintiffs have filed a motion for leave to file an amended complaint [doc. no. 27]. For the reasons set forth below, this motion will be denied, without prejudice.

The procedural posture of this case is important in ruling on this motion. In April of 2005, defendants' appealed our order denying their motion to dismiss, "...to the extent said Motion to Dismiss was based on the doctrine of federal qualified immunity." The parties have argued the case before the before the Court of Appeals, but the Court of Appeals has not yet issued its decision. At a June 30, 2006 status conference, the parties informed the court of the status of the appeal. The court stayed all further proceedings in this matter, including defendants' intended dispositive motion, pending the Court of Appeals's decision. However, in response to plaintiffs' request at that

conference, the court did give plaintiffs permission to file a formal motion for leave to file an amended complaint.

Plaintiffs' filed such a motion, attaching the proposed amended complaint [doc. no. 24]. In response to defendants' opposition to that motion, plaintiffs' filed a second motion for leave to file an amended complaint [doc. no. 27]. The amended complaint, among other things, includes new details regarding interactions Mr. Thomas allegedly had with some of the individual defendants. These allegations are important to the issue of qualified immunity. It would be improper to permit plaintiffs to change allegations central to the issues currently under consideration by the Court of Appeals.

As with defendants' intended summary judgment motion, we can address plaintiffs' request to amend the complaint after the Court of Appeals issues its decision in this case. Until then, all further proceedings in this case are stayed.

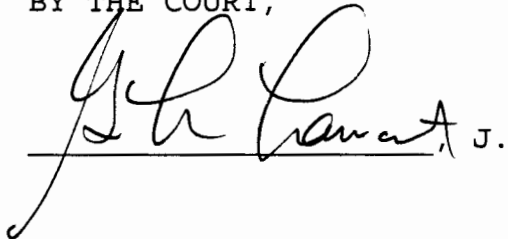
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ORDER

AND NOW, this 4<sup>th</sup> day of August, 2006, IT IS HEREBY ORDERED that plaintiffs' motion to permit filing of amended complaint [doc. no. 24] and amended motion to permit filing of amended complaint [doc. no. 27] are DENIED, without prejudice to plaintiffs' ability to seek leave of court to file an amended complaint after the Court of Appeals has issued its decision in this case.

BY THE COURT,

  
\_\_\_\_\_ J.

cc: All Counsel of Record